

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.
---

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

TOMMIE LYNEX,

Defendant and Appellant.

B295689

(Los Angeles County  
Super. Ct. No. PA034126)

APPEAL from an order of the Superior Court of Los Angeles County, David W. Stuart, Judge. Affirmed.

Tommie Lynex, in pro. per., and Donna L. Harris, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

---

Appellant Tommie Lynex appeals from the court's order declining to resentence him in light of Senate Bill No. 620 (Stats. 2017, ch. 682). On June 3, 2019, his appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). We have reviewed the matter pursuant to *Wende* and *People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*), and have found no arguable appellate issues. We therefore affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

In 2000, a jury convicted appellant Tommie Lynex of first degree murder (Pen. Code, § 187, subd. (a)),<sup>1</sup> and found true the section 12022.53, subdivision (d) firearm enhancement allegation against him. The trial court sentenced Lynex to state prison for a term of 50 years to life, comprised of a term of 25 years to life on the first degree murder charge and an additional 25 years to life for the firearm enhancement. This court affirmed Lynex's conviction and sentence on July 17, 2001 (*People v. Lynex* (July 17, 2001, B145639) [nonpub. opn.]). The California Supreme Court denied review on October 10, 2001 (*People v. Lynex, supra*, B145639, review den. Oct. 10, 2001, S100271).

On January 18, 2019, appellant filed a petition for resentencing in light of Senate Bill No. 620, which amended the code to permit trial courts discretion to strike the certain previously mandatory firearm sentencing enhancements. Lynex attached to the petition documentation of his extensive rehabilitation efforts while in custody, including completion of his high school education, completion of substance abuse classes, parenting, domestic violence

---

<sup>1</sup> Unless otherwise indicated, all subsequent statutory references are to the Penal Code.

and anger management classes, and vocational training in several different fields.

The trial court denied the petition for resentencing, noting that Lynex's sentence had become final well before the effective date of Senate Bill No. 620, and that there was no separate, independent ground for resentencing. Lynex timely filed a notice of appeal.

On June 3, 2019, Lynex's appointed counsel filed a *Wende* brief, raising no issues on appeal from the trial court's denial of Lynex's petition, and requesting that we independently review the record to determine whether the trial court committed any error. On the same day, Lynex's counsel sent Lynex a letter explaining her evaluation of the record on appeal and her intention to file a *Wende* brief. Lynex's counsel also provided him a copy of the record on appeal and informed Lynex of his right to file a supplemental brief.

On June 14, 2019, Lynex filed a document captioned "Affidavit/Notice And Demand for Dismissal of Criminal Case No. PA034126 And Court of Appeal No. B295689, That Shall Now Be Void On It[]s Face and Lynex Shall Be Ordered By This Court Released from Custody Within 72 Hours And All Charges Dismissed." The document refers to and attaches the June 3, 2019 letter from Lynex's appellate counsel, but discusses only various issues unrelated to his petition for resentencing, appeal therefrom, or Senate Bill No. 620.

## DISCUSSION

Senate Bill No. 620 vests trial courts with discretion to strike or dismiss firearm enhancements, such as the firearm enhancement imposed here, in the interest of justice. (See § 12022.53, subd. (h).) The bill took effect on January 1, 2018 and applies retroactively to cases not yet final on that date. (*People v. McDaniels* (2018) 22 Cal.App.5th 420, 424–425; see *People v. Francis* (1969) 71 Cal.2d 66, 75–76 [“when a statute mitigating punishment becomes effective after the commission of the prohibited act *but before final judgment* the lesser punishment provided by the new law should be imposed in the absence of an express statement to the contrary by the Legislature”], italics added.)

We have reviewed the record on appeal and are satisfied that no arguable appellate issue exists, as Lynex’s sentence became final several years before Senate Bill No. 620 took effect. Therefore, Senate Bill No. 620 does not apply to him. Although his extensive efforts to rehabilitate himself are to be commended, they do not affect this conclusion.

We are further satisfied that Lynex’s counsel has fully complied with her responsibilities. (See *Wende, supra*, 25 Cal.3d at pp. 439–442; *Kelly, supra*, 40 Cal.4th at pp. 123–124.)

## DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED.

ROTHSCHILD, P. J.

We concur:

BENDIX, J.

WEINGART, J.\*

---

\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.